

Document No. 4043  
**WORKERS' COMPENSATION COMMISSION**  
**CHAPTER 67**  
Statutory Authority: 1976 Code Section 42-3-30

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- 67-1402. Unqualified Self-Insured Employer, Prosecution.

**Synopsis:**

The Commission amends and adds regulations to Chapter 67 to reflect changes in Title 42 necessitated by the approval of Act 111 on June 25, 2007. The amendments, deletions, and additions further reflect grammatical changes, the ability to receive and to serve forms and documents electronically, changes in electronic data interchange procedures, and additions in attorney fee petition procedures.

**Section-by-Section Discussions:**

R.67-202A(1) is amended to more accurately describe the Accident Reporting Division.

R.67-202A(4) is amended to make a grammatical change.

R.67-202A(5) is amended to describe only the Compliance Division and its duties.

A new R.67-202A(6) is added to describe the Coverage Division and its duties.

R.67-202A(6), R.67-202A(7), R.67-202A(8), R.67-202A(9), R.67-202A(10), R.67-202A(11), R.67-202A(12), and R.67-202A(13) will be renumbered accordingly.

Newly renumbered R.67-202A(11) is amended to reflect the proper name of the Medical Services Division and the correct names of the provider manuals used.

Newly renumbered R.67-202A(12) is amended to reflect a change in the name of the Public Assistance Division to the Public Affairs Division and a grammatical correction.

The original R.67-202A(14) is deleted in its entirety.

R.67-202A(18) is added.

R.67-203A is amended to reflect changes in duplication of forms.

R.67-203B is amended to reflect the availability of the Commission's forms on the web site.

A new form, Form 14B, becomes R.67-203B(22) and current R.67-203B(22) becomes R.67-203B(23). The current subparagraph (23) becomes (24) and current (24) is renumbered to (25).

A new form, Form 16A becomes R.67-203B(26). Current R.67-203B(26) is renumbered as R.67-203B(28). The subsequent subparagraphs are renumbered through R.67-203B(38).

New Form 39 is inserted as R.67-203B(39). All subsequent subparagraphs through R.67-203B(45) are renumbered.

Current R.67-203B(46) and R.67-203B(48) are deleted.

Current R.67-203B(46) through R.67-203B(52) are renumbered.

R.67-203(53) R.67-203B(54), and R.67-203B(55) are deleted.

R.67-205B is amended to allow forms and documents to be delivered to the Commission electronically.

R.67-206B(2) is amended to reflect a change in filing a claim.

R.67-206B(3) is deleted.

R.67-206B(4) is renumbered as R.67-206B(3).

R.67-206C is amended to reflect the number of items listed.

Punctuation is corrected in R.67-206C(12).

A new R.67-206C(13) is added.

Current R.67-206C(13) is amended to become R.67-206D and to delete reference to the Claims Department.

Current R.67-206C(14) is amended to become R.67-206E and to delete reference to the Claims Department.

R.67-207A(5) is added as an additional requirement for requesting a hearing.

R.67-211A(1), R.67-211A(2), R.67-211B(1), and R.67-211C(1) are amended to allow electronic service of forms and documents.

R.67-211C(3) has been added.

R.67-213A is amended to permit service of orders electronically.

R.67-213B is amended to allow Hearing Notices to be served electronically. It is further amended to state all unrepresented claimants and uninsured employers shall be served by first class mail.

R.67-401A is amended to require the designation of one address and one electronic address in underwriting matters.

A new R.67-401B is added.

Current R.67-401B is renumbered R.67-401C.

Newly renumbered R.67-401C is amended to require insurance carriers, self-insured employers, and self-insurance funds to designate an electronic address and deletes reference to the Coverage and Compliance Department.

Current R.67-401C is renumbered R.67-401D.

Newly renumbered R.67-401D is amended to delete the designation date and reference to the Coverage and Compliance Department.

New R.67-401E, R.67-401F, and R.67-401G are added.

R.67-405B is amended to add the Commission's "authorized agent." This is added to reflect the possibility NCCI might not continue to be the Commission's agent.

R.67-405B(1) is amended correct a grammatical error, to delete the reference to R.67-406, and to add a reference to R.67-416.

R.67-405B(2) is amended to add Accident to State Fund, to delete the reference to R.67-408, and to add a reference to R.67-416.

R.67-405C is deleted in its entirety.

R.67-405D is deleted in its entirety.

R.67-405F is deleted in its entirety.

Current R.67-405E and R.67-405G become R.67-405C and R.67-405D.

Newly renumbered R.67-405C is amended to add “authorized agent” and changes regarding cancellation of or failure to renew insurance notification.

Newly renumbered R.67-405C(1) is amended to delete references to R.67-406 and R.67-407, to add a reference to R.67-416, and to clarify termination date.

Newly renumbered R.67-405C(2) is amended to add Accident to State Fund, to delete reference to R.67-408, to add a reference to R.67-416, and to clarify termination date.

Newly renumbered R.67-405D is amended to make a grammatical correction and to add Accident to State Fund.

R.67-406 is deleted in its entirety.

R.67-407 is deleted in its entirety.

R.67-408 is deleted in its entirety.

R.67-409B(1) is amended to delete reference to R.67-406, R.67-407, and R.67-408.

R.67-410 is deleted in its entirety.

R.67-411A(1) is amended by deleting “in writing.”

R.67-411C(1) is amended by deleting “annually.”

R.67-411C(1), R.67-411C(2), R.67-411C(3), and R.67-411D are amended by deleting “s Accident Reporting Division.”

R.67-412 is rewritten to reflect changes to the 12M system.

R.67-415A is amended by adding R.67-415A(1) and R.67-415A(2) to reflect changes in the procedure for documenting insurance coverage.

R.67-416A is amended by adding the State Accident Fund and by deleting the reference to January 1, 1998.

R.67-416B and R.67-416D are deleted.

Current R.67-416C is renumbered R.67-416B and allows the assessment of fines for failure to properly follow electronic interchange standards.

R.67-603E is added to reflect additional requirements for processing a Form 51.

R.67-607C is added to allow hearing notices to be issued electronically.

R.67-609A(2) is amended to allow a notice of withdrawal and/or removal from the docket to be sent electronically.

R.67-701A is amended to require the original and three copies of the Form 30.

R.67-709B is amended to reflect a change in the manner of panel assignment for appellate cases.

R.67-709D(2) is a grammatical correction.

R.67-712A and R.67-712B are added to require notice to the Commission of appeals to a higher court and to require copies of all orders be sent to the Commission.

R.67-801A is amended to add Form 16A.

R.67-801B is a grammatical correction.

R.67-801D is amended to add Form 16A and to reflect a change in procedure.

R.67-801F is added to reflect a procedural change.

R.67-802 is amended to add Form 16A to the title.

R.67-802A and R.67-802A(1) are amended to add Form 16A.

R.67-802A(1)(a) is amended to add Form 14B.

R.67-802A(2), R.67-802A(2)(a) and R.67-802A(2)(d) are amended to add Form 16A. R.67-802A(2)(a) further adds an additional requirement for the employer's representative.

R.67-802A(2)(b) and R.67-802A(2)(c) are amended to reflect grammatical corrections.

R.67-802A(3), R.67-802A(3)(a), R.67-802A(3)(b), and R.67-802A(3)(c) are added to reflect changes in procedure.

R.67-803A(1) through R.67-803A(5) are amended to reflect grammatical changes.

R.67-803B, R.67-803B(1), R.67-803B(1)(a), and R.67-803B(1)(c) are amended to reflect changes in settlements by agreement and final release if the claimant is not represented.

R.67-803B(2), R.67-803B(2)(a), R.67-803B(2)(b) and R.67-803B(2)(c) are amended to reflect changes in settlements by agreement and final release if the claimant is represented.

R.67-803B(2)(d) and R.67-803B(2)(e) are deleted.

R.67-803C is amended to reflect changes in procedure for settlements by agreement and final release.

R.67-804A is amended to add the Form 16A.

R.67-804C(2)(a) through R.67-804C(2)(f) are renumbered to change form numbers and to reflect changes regarding medical reports.

R.67-804C(2)(g) is added.

R.67-804D is amended to add Form 16A.

R.67-804F is amended to add Form 16A and a grammatical correction.

R.67-805A, R.67-805B, and R.67-805C are amended to reflect a change in procedure for third party settlements.

R.67-805D is added to further explain the new procedure for third party settlements.

R.67-1001A is amended to correct grammatical errors.

R.67-1001B is amended to delete “’s Coverage and Compliance Department” and to require the period of exposure be provided for each employer for each period of alleged exposure when requesting a coverage report.

R.1101C is amended to delete the number of weeks for total loss of the penis.

R.67-1204C is amended to require an Order accompany each Form 61 requesting attorney fee approval.

R.67-1204D(1), R.67-1204D(2), R.67-1204E(1), R.67-1204E(2), R.67-1204E(2)(a), R.67-1204E(2)(b), and R.67-1204E(2)(c) are deleted.

R.67-1204D, R.67-1204E, and R.67-1204F are amended to reflect changes in reporting attorney fees for approval.

R.67-1301C is added to denote a reference for maximum fees for search and duplication of medical records.

R.67-1307 is added to establish and regulate the role of rehabilitation professionals and other similarly situated professionals in workers’ compensation cases.

R.67-1308 is added to define communication between parties and health care providers.

R.67-1402A is amended by deleting “’s Accident Reporting Department.”

R.67-1402C(2), R.67-1402D(1), R.67-1402F, and R.67-1402F(2) are amended by deleting all references to the Form 62 and adding Compliance Agreement, if it was not in the text.

R.67-1402E is amended by deleting “Coverage and Compliance Department” and adding “Commission.”

R.67-1402F(4) is amended to correct a grammatical error.

R.67-1402F(6) is amended by deleting the reference to R.67-1403.

~~Indicates Matter Stricken~~

Indicates New Matter

**Text:**

67-202. Words and Phrases, Defined.

A. The definition of words and phrases used in this Chapter include:

(1) Accident Reporting Division: A division of the Commission responsible for receipt and processing of the employer's first report of injury, Form 12A (ACORD 4) and Form 12M.

(2) Certified Mail: Mail including that which is certified by the U. S. Postal Service and that carried by a commercial carrier that keeps proper documentation.

(3) Claimant: The party making a claim including his or her attorney.

(4) Claims Department: A department of the Commission ~~which creates and~~ responsible for managing the workers' compensation file. The department reviews ~~noncontested~~ case files that are not contested and assures compliance with the provisions of this Chapter and the Act by requesting and, if necessary, assessing a fine for failure to file reports required by this Chapter and the Act.

(5) ~~Coverage and Compliance Division Department~~ Division Department: A division department of the Commission responsible for investigation and, if necessary, requests prosecution of an employer who refuses or neglects to comply with the insurance provisions of this Chapter and the Act. ~~The department maintains records of employers, employees, insurance carriers, self-insurance funds, and the State Accident Fund's compliance with the Chapter and the Act.~~ The division department is authorized to request and, if necessary, assess a fine for failure to file reports required under this Chapter and the Act.

(6) Coverage Division: A division responsible for monitoring and maintaining coverage records of employers, employees, insurance carriers, self-insurance funds, and the State Accident Fund's compliance with the Chapter and the Act. The division is authorized to request and, if necessary, assess a fine for failure to file reports required under this Chapter and the Act.

(~~6~~7) Employer's Representative.

(a) The employer's insurance carrier, the claims administrator for a self-insurance fund or a self-insured employer, the State Accident Fund, and counsel of record for the employer and its insurance carrier.

(b) If an employer is operating as an unqualified self-insured, the term "employer's representative" shall mean the unqualified self-insured employer and its attorney, if any, who shall be directly responsible for compliance with the provisions of this Chapter and the Act.

(~~7~~8) Federal Employer Identification Number: "FEIN."

(~~8~~9) Informal Conference: Also called a "viewing," an informal conference is a meeting with the claimant, the employer's representative, and a Commissioner or claims mediator. At the informal conference, the Commissioner or claims mediator answers questions about the claim and reviews, for approval, a proposed settlement of a claim. An informal conference may be held for the purpose of certifying a Form 17 according to R.67-505E and R.67-506F.

(~~9~~10) Judicial Department: A department of the Commission which assigns the informal conference, contested case, and Commission review docket and issues the hearing notice. The department reviews the Commission's files and assures compliance with the provisions of this Chapter and the Act by

requesting and, if necessary, assessing a fine for failure to file reports required by this Chapter and the Act.

~~(4011)~~ Medical Review Services Division: A division of the Commission which administratively reviews physician fees and hospital charges to assure compliance with the Medical Services Provider Manual and the Hospital ~~Per Diem Schedule~~; and Ambulatory Surgery Center Payment Manual.

~~(4112)~~ Public Affairs Assistance Division: A division of the Commission responding to the general inquiries of employees and employers concerning their rights, benefits, and obligations under the Act. The service does not provide legal advice nor offer opinions concerning a particular claim.

~~(4213)~~ Self-Insurance Division: A division of the Commission which monitors the compliance of self-insured employers and self-insurance funds with this Chapter and the Act. The division reviews applications to self-insure and is authorized to request and, if necessary, assess a fine for failure to file reports required under this Chapter and the Act.

~~(4314)~~ South Carolina Workers' Compensation Commission: the Commission.

~~(14) State Workers' Compensation Fund: the State Accident Fund.~~

(15) Unqualified Self-Insured Employer: An employer who refuses or neglects to comply with the insurance provisions of this Chapter and the Act.

(16) Workers' Compensation Law: the Act.

(17) Workers' Compensation Commission's file number: the W.C.C. file number.

(18) Rehabilitation professionals: coordinators of medical rehabilitation services.

B. In addition, other words and phrases are defined in the article most closely associated with the word or phrase.

#### 67-203. Official Forms and Documents.

A. The Commission prepares and approves all required forms. A person shall use a Commission form and shall not substitute another document for a form. ~~Photocopying or reproduction of a form on paper~~ the same size is permitted, provided content is not altered.

B. Commission forms are available on the web site. The Commission supplies at a reasonable charge, upon written request to the Commission's Mail Room, the following forms.

- (1) Form S-1, Notice of Third Party Action, Employer;
- (2) Form S-2, Notice of Third Party Action, Employee;
- (3) Form S-3, Entitlement to Right of Action;
- (4) Form S-4, Court Certificate;
- (5) Form 2, Employer's Notice of Being Subject to the Act;



- (6) Form 5, Corporate Officer Notice to Reject;
- (7) Form 6, Application to Create a Self-Insurance Fund;
- (8) Form 6A, Application for Membership in a Self-Insurance Fund;
- (9) Form 7, Application to Individually Self-Insure;
- (10) Form 7A, Corporate Guaranty;
- (11) Form 8, Proof of Compliance, Surety Bond;
- (12) Form 8A, Proof of Compliance, Securities Pledge;
- (13) Form 8B, Proof of Compliance, Memorandum of Understanding, and Irrevocable Letter of Credit;
- (14) Form 8C, Proof of Compliance, Excess Insurance;
- (15) Form 9, Certificate for Self-Insurance;
- (16) Form 10, Self Insurance Tax Return ~~[Reserved]~~;
- (17) Form 11, Self Insurer's Quarterly Financial Report;
- (18) Form 11A, Self Insurer's Annual Financial Report;
- (19) Form 12A, Employer's First Report of Injury (ACORD 4);
- (20) Form 12M, Annual Minor Medical Report;
- (21) Form 14A, Health Insurance Claim Form (HCFA-1500);
- ~~(22) Form 15, Temporary Compensation Report;~~
- (22) Form 14B, Physician's Statement;
- ~~(23) Form 15S, Supplemental Report of Varying Temporary Partial Payments;~~
- (23) Form 15, Temporary Compensation Report;
- ~~(24) Form 16, Agreement for Permanent Disability/Disfigurement Compensation;~~
- (24) Form 15S, Supplemental Report of Varying Temporary Partial Payments;
- ~~(25) Form 17, Receipt of Compensation;~~
- (25) Form 16, Agreement for Permanent Disability/Disfigurement Compensation (prior to July 1, 2007);
- ~~(26) Form 18, Periodic Report;~~

(26) Form 16A, Agreement for Permanent Disability/Disfigurement Compensation (after July 1, 2007);

~~(27) Form 19, Status Report and Compensation Receipt;~~

(27) Form 17, Receipt of Compensation;

~~(28) Form 20, Statement of Earnings of Injured Employee;~~

(28) Form 18, Periodic Report;

~~(29) Form 21, Employer's Request for Hearing;~~

(29) Form 19, Status Report and Compensation Receipt;

~~(30) Form 24, Application for Lump Sum Award;~~

(30) Form 20, Statement of Earnings of Injured Employee;

~~(31) Form 27, Subpoena;~~

(31) Form 21, Employer's Request for Hearing;

~~(32) Form 30, Request for Commission Review;~~

(32) Form 24, Application for Lump Sum Award;

~~(33) Form 31, Notice of Review Hearing;~~

(33) Form 27, Subpoena;

~~(34) Form 32, Request to Waive Appeal Filing Fee;~~

(34) Form 30, Request for Commission Review;

~~(35) Form 36, Medical Fee Approval;~~

(35) Form 31, Notice of Review Hearing;

~~(36) Form 38, Employer's Withdrawal of Election to Adopt the South Carolina Workers' Compensation Act;~~

(36) Form 32, Request to Waive Appeal Filing Fee;

~~(37) Form 50, Employee's Notice of Claim and/or Request for Hearing;~~

(37) Form 36, Medical Fee Approval;

~~(38) Form 51, Employer's Answer to Request for Hearing;~~

(38) Form 38, Employer's Withdrawal of Election to Adopt the South Carolina Workers' Compensation Act;

(39) Form 39, Coverage Coding Form;

~~(39) Form 52, Employee's Notice of Claim and/or Request for Hearing, Death Case;~~

(40) Form 50, Employee's Notice of Claim and/or Request for Hearing;

~~(40) Form 53, Employer's Answer to Request for Hearing, Death Case;~~

(41) Form 51, Employer's Answer to Request for Hearing;

~~(41) Form 54, Employer's Notice of Claim and/or Request for Hearing;~~

(42) Form 52, Employee's Notice of Claim and/or Request for Hearing, Death Case;

~~(42) Form 55, Second Injury Fund's Answer to Employer's Request for Hearing;~~

(43) Form 53, Employer's Answer to Request for Hearing, Death Case;

~~(43) Form 58, Pre-hearing Brief;~~

(44) Form 54, Employer's Notice of Claim and/or Request for Hearing;

~~(44) Form 59, Appellant's Informal Brief;~~

(45) Form 55, Second Injury Fund's Answer to Employer's Request for Hearing;

~~(45) Form 61, Attorney Fee Petition;~~

(46) Form 58, Pre-hearing Brief;

~~(46) Form 62, Compliance Agreement;~~

(47) Form 59, Appellant's Informal Brief;

~~(47) Form 65, Waiver of Claim Involving an Occupational Disease;~~

(48) Form 61, Attorney Fee Petition;

~~(48) Form 68, Inpatient Hospital Per Diem Rate Calculation Report;~~

(49) Form 65, Waiver of Claim Involving an Occupational Disease;

~~(49) (50) Second Injury Fund Form 1, Agreement to Reimburse Compensation;~~

~~(50) (51) Second Injury Fund Form 2, Reimbursement Request;~~

~~(51) (52) Second Injury Fund Form 3, Employer's Notice of Claim for Reimbursement from Second Injury Fund;~~

~~(52)~~ (53) Second Injury Fund Form 4, Medical Information Request;

~~(53)~~ “Information for Employer” brochure;

~~(54)~~ “Workers’ Comp Works for You” brochure;

~~(55)~~ “Frequently Asked Questions about Informal Conferences” brochure.

#### 67-205. Filing with the Commission, Defined.

A. The date of filing a form or document with the Commission is provided in subsections B, C, and D, below.

B. A form or document delivered to the Commission electronically, by first class mail or by hand delivery is filed the date of receipt in the Commission’s offices as indicated by the earliest date stamped on the form or document by an official Commission stamp with the exception of forms and documents delivered pursuant to R.67-205C and R.67-205D.

C. A form or document delivered to the Commission by certified or registered mail is deemed filed the date of deposit in the United States Postal Service as indicated by the date of postmark.

D. The following forms or documents are deemed filed on the date on the accompanying certificate of service properly addressed to the Commission: Forms 15(III), 50, 51, 52, 53, 54, 55, 58, 30, and appellate briefs.

#### 67-206. Filing a Claim.

A. To file a claim, file with the Commission’s Claims Department a Form 50, Form 52, or a letter as provided below.

B. To file a claim on a Form 50 or Form 52, mark the box at the signature line which states “I am filing a claim. I am not requesting a hearing at this time.”

(1) Address and deliver the form to the Claims Department.

~~(2) The Claims Department will notify the employer’s representative a claim has been filed.~~

(2) Filing a claim requires the WCC file number or the Coverage Coding Form 39 must be included. This requirement may be waived for unrepresented claimants.

~~(3) The employer’s representative shall immediately contact the claimant.~~

~~(3)~~(4) Filing a claim does not request a hearing nor is the employer’s representative required to file a Form 51 or 53.

C. A letter filed with the Commission also files a claim. The letter should include the information listed in items (1) through ~~(12)~~ (13) below:

(1) Claimant’s name (and worker’s name, if different);

(2) Claimant’s address (and worker’s address, if different);

(3) Claimant's home and work telephone numbers (and worker's home and work telephone numbers, if different);

(4) Claimant's social security number (and worker's social security number, if different);

(5) Employer's name;

(6) Employer's address;

(7) Employer's telephone number;

(8) Employer's insurance carrier, if known;

(9) Date of injury;

(10) The county in which the injury occurred;

(11) Type of injury (to which area of body);

(12) Description of the accident;

(13) The WCC file number or Coverage Coding Form must be included.

~~D.(13)~~ Failure to include any of the information above does not bar the claim if the information necessary to an issue in the claim is given to the ~~Claims Department~~ Commission upon request.

~~E.(14)~~ The ~~Claims Department~~ Commission will notify the employer's representative ~~as in section B(2) above~~ a claim has been filed. The employer's representative shall immediately contact the claimant.

#### 67-207. Requesting a Hearing, Claimant.

A. To request a hearing, file a Form 15, Form 50, or Form 52 with the Commission's Judicial Department as provided below:

(1) Mark the box at the signature line on the Form 50 or Form 52 which states, "I am requesting a hearing," or sign and date under Section III of the Form 15 "Notice to Injured Worker or Legal Representative When Temporary Compensation Has Been Stopped."

(2) Address and deliver the form to the Judicial Department.

(3) The Commission serves the Form 15, Form 50, or Form 52 on the employer according to R.67-210 and R.67-211.

(4) When under the laws of this State the employer and its insurance carrier, if any, are required to be represented by an attorney in a contested case hearing, an attorney shall be designated according to R.67-603.

(5) The WCC file number or Coverage Coding Form must be included.

B. Filing a Form 50 or Form 52 with the Commission requesting a hearing also files the claim if a claim has not been filed before.

#### 67-211. Service of Forms and Documents.

##### A.Claimant's Request for Hearing.

(1) When the claimant is represented by an attorney, the attorney shall serve a copy of the Form 15(III), Form 50, or Form 52 hearing request electronically or by depositing the form in the United States Postal Service first class postage, addressed to the opposing parties pursuant to R.67-210. Service is deemed complete upon mailing unless the form is returned. If the form is returned, service may be completed pursuant to the South Carolina Rules of Civil Procedure. A hearing will not be set until service is complete and proof of service is filed with the Judicial Department.

(2) When the claimant is not represented, the claimant may serve the Form 15(III), Form 50, or Form 52 hearing request as set forth in A(1) above. When the claimant does not serve the hearing request, the Commission will serve the request electronically or by depositing the form in the United States Postal Service first class postage, addressed to the opposing parties per R.67-210.

##### B.Employer's Representative's Request for Hearing and/or Response to a Request For Hearing.

(1) When the claimant is represented by an attorney, the employer's representative shall serve a copy of the Form 21, Form 51, or Form 53 electronically or by depositing the form in the United States Postal Service first class postage, addressed to the claimant's attorney. Service is deemed complete upon mailing unless the form is returned. If the form is returned, service may be completed pursuant to the South Carolina Rules of Civil Procedure. A hearing will not be set until service is complete and proof of service is filed with the Judicial Department.

(2) When the claimant is not represented by an attorney, the employer's representative shall serve a copy of the Form 21, Form 51, or Form 53 by personal service or by certified mail, return receipt requested, delivery restricted to the addressee. When service is by certified mail, service is complete the date of the addressee's receipt of the form as indicated by the signed certified mail return receipt. If the form is returned, service may be completed pursuant to the South Carolina Rules of Civil Procedure. A hearing will not be set until service is complete and proof of service is filed with the Judicial Department.

##### C.Other Forms and Documents.

(1) Unless otherwise specified in this Chapter, serve other forms and documents electronically or by depositing the form or document in the United States Postal Service first class postage, addressed to the opposing parties per R.67-210. Service is deemed complete upon mailing unless the document is returned. If the document is returned, service may be completed pursuant to the South Carolina Rules of Civil Procedure.

(2) When the claimant is not represented by an attorney, the claimant may serve a form or document according to C(1) above. When the claimant does not serve the form or document, the Commission will serve it by depositing the form or document in the United States Postal Service first class postage, addressed to the opposing parties per R.67-210.

(3) Hearing notices may be served electronically pursuant to R.67-210. All unrepresented claimants and uninsured employers shall be served by depositing the notice in the United States Postal Service, first class postage per R.67-210.

#### 67-213. Service of Orders, Hearing Notices, and Review Hearing Notices.

A. The Commission serves orders electronically, by certified mail, return receipt requested or by deposit in the United States Postal Service, first class postage, addressed to the parties according to R.67-210.

(1) Service is made by delivering a copy of the order to a party representing himself or herself or to the attorney representing the party.

(2) When service is made by certified mail, the date of service is the date of the addressee's receipt indicated by the certified mail return receipt. When service is made by first class mail, five days are added to the date of mailing. Service by first class mail is deemed complete five days after the date of deposit in the United States Postal Service.

B. The Commission serves hearing notices and Form 31, Review Hearing Notices, electronically or by deposit in the United States Postal Service first class postage, addressed to the parties according to R.67-210. Service is deemed complete upon mailing. All unrepresented claimants and uninsured employers shall be served by depositing the notice in the United States Postal Service, first class postage per R.67-210. The Commission may, but is not required to, serve such notices by certified mail, return receipt requested. Service by certified mail is complete upon receipt.

C. When an attorney represents a party, the party is not served. If the mailing is returned, service may be completed as in R.67-211.

#### 67-401. Designation of Authorized Recipient of Service and Other Demands.

A. Every workers' compensation insurance carrier, self-insured employer, and self-insurance fund doing business in this State shall designate one address and one electronic address as the authorized recipient in underwriting matters of service, mail, documentation, requests, inquiries, and other demands concerning the employer, the insurance carrier, the self-insured, the self-insurance fund, and a member of the self-insurance fund.

B. Every workers' compensation insurance carrier, self-insured employer, and self-insurance fund doing business in this State shall designate one address and one electronic address as the authorized recipient in claims and all other non-underwriting matters of service, mail, documentation, requests, inquiries, and other demands concerning the employer, the insurance carrier, the self-insured, the self-insurance fund, and a member of the self-insurance fund.

~~C. B.~~ The workers' compensation insurance carrier, self-insured employer, and self-insurance fund shall provide in writing the name, address, electronic address, and telephone number of the authorized recipient to the Commission's ~~Coverage and Compliance Department~~.

~~D. C.~~ ~~The designation must be made by January 31 of each year.~~ The designation is deemed continuous. A change in designation shall not be effective until after thirty days written notice to the Commission Coverage and Compliance Department.

E. If coverage has been reported to the Commission by EDI and the report included an underwriting office address, the address most recently reported shall be deemed the designated address for all underwriting matters related to that coverage in lieu of the address designated under R.67-401A.

F. If a claim has been reported to the Commission by EDI and the report included a claims office address, the address most recently reported shall be deemed the designated address for all matters related to that claim in lieu of the address designated under R.67-401B.

G. Every workers' compensation insurance carrier, self-insured employer, and self-insurance fund shall provide in writing their home office address, electronic address, and telephone number.

#### 67-405. Employers and Insurance Carriers, Proof of Compliance.

A. Every employer operating under the Act shall file with the Commission proof of its compliance with the insurance provisions of this Chapter and the Act.

B. When an employer insures its liability under the Act, the insurer shall file a report of coverage within thirty days of the inception date of the policy with the Commission's authorized agent as proof of the employer's compliance with the insurance provisions of this Chapter and the Act and as provided herein.

(1) A worker's compensation insurance carrier shall file a report of coverage ~~as provided in R.67-406~~ in accordance with R.67-416.

(2) The State Accident Fund shall file a report of coverage ~~as provided in R. 67-408~~ in accordance with R.67-416.

(3) A self-insurance fund shall comply with the insurance reporting requirements in Article 15 of this Chapter.

~~C. A report of coverage must state the effective date of insurance coverage, the correct name and address of the insured, and the insured's FEIN.~~

~~D. The report of coverage must in the space provided for an expiration date state the word "Continuous".~~

~~C. E. If the employer fails to renew its insurance, or the insurer cancels the policy, the employer's insurer shall immediately notify the Commission's authorized agent that it no longer insures the employer by filing a notice of termination with the Commission.~~

(1) A worker's compensation insurance carrier shall file a notice of termination ~~as provided in R.67-406 or R.67-407~~ in accordance with R.67-416. Such termination shall not be effective until thirty days after receipt by the Commission's authorized agent.

(2) The State Accident Fund shall file a notice of termination ~~as provided in R.67-408~~ in accordance with R.67-416. Such termination shall not be effective until thirty days after receipt by the Commission's authorized agent.

(3) A self-insurance fund shall file notice of termination of a fund member's self-insurance privileges as provided in Article 15 of this Chapter.

~~F. A report of coverage and membership in a self insurance fund shall not expire nor shall termination or cancellation be effective until after thirty days from the date a notice of termination, or notice of cancellation of a employer's membership in a self insurance fund, is filed with the Commission.~~



~~D.G.~~The employer's representative, and the State Accident Fund shall on behalf of the employer file with the Commission all reports and documents required by this Chapter and the Act.

~~67-406. Reporting Insurance Policies with Effective Dates on or after July 1, 1989.~~

~~A.~~The National Council on Compensation Insurance (NCCI) is the authorized agent of the Commission for filing a report of coverage and notice of termination required in R.67-405 and the Act for workers' compensation insurance policies effective on or after July 1, 1989 and issued by an insurance carrier providing workers' compensation insurance in this State. This regulation does not apply to self-insured employers, a self insurance fund, or the State Fund.

~~B.~~The insurance carrier shall file a report of coverage and notice of termination directly with the NCCI. The date of receipt by the NCCI is deemed the date of filing with the Commission.

~~C.~~The designated forms insurance carriers shall use to comply with R. 67-405, this Chapter, and the Act are:

~~(1) The NCCI standard Workers' Compensation and Employers' Liability Insurance Policy Information Page, hereinafter NCCI Form WC 00-00-01A; and~~

~~(2) The NCCI Policy Termination/Cancellation/Reinstatement Notice, hereinafter NCCI Form WC 89-06-09 A; and~~

~~(3) The NCCI Immediate Policy Coverage/Cancellation Notice, hereinafter NCCI Form WC 89-06 20 A.~~

~~D.~~To issue a workers' compensation insurance policy and file a report of coverage with the Commission, the insurance carrier shall file with the NCCI the NCCI Form WC 00-00-01A, required endorsements and schedules, if any, within thirty days of the policy's effective date.

~~(1) An insurance carrier may file the NCCI Form, WC 89-06-20 A, to meet the thirty day filing requirement if the NCCI Form, WC 00-00-01A, is filed with the NCCI within thirty days from the date the policy is issued.~~

~~(2) The NCCI Form WC 89-06-20 A does not substitute for the NCCI Form WC 00-00-01A.~~

~~(3) Failure to file with the NCCI timely may result in the assessment of a fine against the insurance carrier.~~

~~E.~~Workers' compensation insurance is deemed continuous until notice of termination is filed according to R.67-405 and as provided in F below.

~~F.~~To cancel workers' compensation insurance coverage, not to renew workers' compensation insurance coverage, or to reinstate a workers' compensation insurance policy, the insurance carrier shall file with the NCCI an NCCI Form WC 89-06-09 A.

~~(1) The insurance carrier may file this notice with the NCCI thirty or more days before the effective date.~~

~~(2) Insurance expiration, termination or cancellation shall not be effective until after thirty days from the date of receipt by NCCI of the NCCI Form WC 89-06-09 A.~~

~~G. Electronic equivalents to the above mentioned forms, as specified by NCCL, must provide all name and address information in a field formatted manner consistent with the International Association of Industrial Accident Boards & Commissions Proof of Coverage Standard.~~

~~67-407. Insurance Policies with Effective Dates before July 1, 1989.~~

~~A. All insurance carriers other than a self insurance fund or the State Fund providing workers' compensation insurance effective before July 1, 1989, shall file the reports and notices required in R.67-405 and the Act directly with the Commission's Coverage and Compliance Department until the next policy period.~~

~~B. The designated forms insurance carriers shall use to comply with R. 67-405, this Chapter, and the Act are:~~

- ~~(1) RB25, Report of Coverage Form "A", hereinafter RB25; and~~
- ~~(2) RB26, Report of Cancellation Form "B", hereinafter RB26; and~~
- ~~(3) RB27, Report of Endorsement Form "C", hereinafter RB27.~~

~~C. To file a notice of termination in R.67-405, the insurance carrier shall file an RB26 with the Coverage and Compliance Department.~~

~~(1) The insurance carrier may file the RB26 thirty days or more before the effective date of termination.~~

~~(2) Insurance expiration, termination, or cancellation shall not be effective until after thirty days from the date of filing the RB26 with the Coverage and Compliance Department.~~

~~D. To amend a previously filed RB25, the insurance carrier shall file an RB27 with the Coverage and Compliance Department.~~

~~(1) Reinstatement of insurance coverage effective before July 1, 1989, but which has lapsed after July 1, 1989, shall be filed according to R.67-406.~~

~~(2) An RB27 attempting to cancel insurance shall not substitute for an RB26.~~

~~E. When the policy period expires for policies issued before July 1, 1989, the insurer shall file a notice of termination as in R.67-407C above and report a new policy period as provided in R.67-406.~~

~~67-408. The State Workers' Compensation Fund, Proof of Compliance.~~

~~A. The State Workers' Compensation Fund shall file a report of coverage and notice of termination as required in R.67-405 directly with the Commission's Coverage and Compliance Department as provided below.~~

~~B. The State Fund shall file the Forms RB25, RB26, and RB27 as in R.67-407 to comply with R.67-405, this Chapter and the Act.~~

~~C. To report insurance coverage, file with the Coverage and Compliance Department an RB25.~~

~~(1) The RB25 must be filed within thirty days of the policy's effective date.~~

~~(2) The insurance is deemed continuous as in R.67-405 until notice of termination is filed according to section D below.~~

~~(3) Failure to file an RB25 within thirty days of the policy's effective date may result in the assessment of a fine against the State Fund.~~

~~D. To terminate insurance, file an RB26 with the Coverage and Compliance Department.~~

~~(1) The RB26 may be filed thirty days or more before the date of termination.~~

~~(2) Insurance expiration, termination, or cancellation shall not be effective until after thirty days from the date of filing an RB26 with the Coverage and Compliance Department.~~

~~E. To amend a previously filed RB25 or to reinstate insurance coverage, file an RB27 with the Coverage and Compliance Department.~~

~~(1) An RB27 does not substitute for an RB26.~~

~~(2) Insurance may be terminated according to section D above.~~

67-409. Duplicate or Dual Insurance Coverage.

A. When duplicate or dual coverage exists by reason of two different insurance carriers issuing two policies to the same employer securing the same liability, the Commission shall presume the policy with the later effective date is in force and the earlier policy terminated on the effective date of the later policy.

B. When both policies carry the same effective date, one policy may be cancelled by filing a notice of termination retroactive to the date of the policy's inception.

(1) Cancellation must be reported as provided in R.67-405, ~~R.67-406, R.67-407, or R.67-408, as applicable.~~

(2) The insurance carrier issuing the notice of termination shall provide the employer notice of termination.

~~67-410. Information Required When Filing Proof of Compliance.~~

~~A. The NCCI standard Workers' Compensation and Employers' Liability Insurance Policy Information Page NCCI Form WC-00-00-01A and RB25 Report of Coverage Form "A" must provide the following information for each business entity insured by the policy of insurance:~~

~~(1) The inception date (also known as the effective date);~~

~~(2) The policy number;~~

~~(3) The employer's FEIN.~~

~~B. If the insurance carrier is unable to obtain the employer's FEIN, or the employer has none, the insurance carrier shall provide the Commission's Coverage and Compliance Department a written monthly report of the employer's name and social security number and the efforts taken to obtain the FEIN. The Commission may assess a fine against the insurer for each employer whose FEIN or name and social security number is not reported to the Commission.~~

~~C. A self insurance fund shall provide the Coverage and Compliance Department a written monthly report stating each insured member's FEIN. If the fund is unable to obtain the employer's FEIN or if the employer has none, the self insurance fund shall report as in section B above. Failure to file the report may result in a fine as in B above and may constitute grounds for revocation of the fund's self insurance privileges.~~

~~D. An employer operating under an approved self insurance program shall provide the Coverage and Compliance Department a written report stating the employer's FEIN.~~

#### 67-411. Employer's Report of Injury, Form 12A.

A. Each employer shall keep a record of all injuries, fatal or otherwise, received by its employees in the course of their employment.

(1) The record must be made ~~in writing~~ on the Form 12A and retained or filed according to section B below.

(2) The Commission shall not construe the filing of a Form 12A as an admission of liability on the part of the employer or the employer's representative.

#### B. Employer's Responsibilities

(1) The employer shall make a record of all work-related injuries reported by its employees on the Form 12A and retain the record for a period of two years.

(2) When an injury requires less than five hundred dollars in medical treatment and does not cause more than one lost workday or permanency, the employer may pay for the medical treatment. The employer is not required to make a written report to the employer's representative or to the Commission.

(3) If the employer denies the claim for injuries or does not elect to pay for the medical treatment, the employer shall send a copy of the Form 12A to the employer's representative immediately after the occurrence and knowledge of the injury.

(4) When an injury requires five hundred dollars or more in medical treatments or when it is determined more than one workday will be missed as a result of the injury or there is likely to be permanency, the employer shall send a copy of the Form 12A to the employer's representative immediately.

(5) The employer shall report all fatalities to its representative.

#### C. Employer's Representative's Responsibilities

(1) When an injury requires less than two thousand five hundred dollars in medical treatments and does not result in compensable lost time or permanency, the employer's representative shall retain the Form 12A filed by the employer for two years. The employer's representative shall make a report of the

injuries in this category to the Commission's ~~Accident Reporting Division~~ annually as required in R.67-412.

(2) When an injury requires two thousand five hundred dollars or more in medical treatments or results in compensable lost time or permanency, the employer's representative shall send the Form 12A to the Commission's ~~Accident Reporting Division~~ within ten business days after the occurrence and the employer's knowledge of the injury. In the event the injury was previously processed under section C(1) above, the Form 12A shall be filed with the Commission's ~~Accident Reporting Division~~ within ten business days of the employer's representative's knowledge the limits set in section C(1) above have been exceeded. The Form 12A shall be marked "Previously Processed As Medical Only."

(3) If the employer's representative, or the employer, denies the claim for injuries, the employer's representative shall notify the claimant in writing and send the Form 12A, a Form 19 (reference R.67-414), and a copy of the letter denying the claim to the Commission's ~~Accident Reporting Division~~ within ten business days after the occurrence and the employer's knowledge of the reportable injury.

(4) The employer's representative is required to report all fatalities to the Commission.

D. An unqualified self-insured employer shall file a Form 12A with the Commission's ~~Accident Reporting Division~~ within ten business days after the occurrence and knowledge of an injury, regardless of the nature or seriousness of the injury.

#### 67-412. Employer's Report of Injury, ~~Form 12M~~ Minor Medical.

A. The employer's representative shall report ~~annually~~ to the Commission's ~~Accident Reporting Division~~ the number of injuries reported by the employer pursuant to R.67-411C(1) ~~during the calendar year and the total cost of medical treatment for injuries qualified under R.67-411C(1), without regard to the date of accident or date reported to the employer's representative.~~

B. ~~The annual report shall be on the Commission's Form 12M for the period January 1 to December 31. The Form 12M shall be submitted to the Commission's Accident Reporting Division by April 1 of each year. This report shall be made in accordance with R.67-416 within ten days of closing by the employer's representative.~~

C. ~~Late Reports submitted after April 1~~ shall be subject to a fine for late reporting plus an additional penalty of five dollars for each day late.

#### 67-415. Documentation of Insurance.

A. For purposes of Section 42-1-415, either of the following is acceptable as documentation of insurance: the ACORD Form 25-S, Certificate of Insurance, as published by the ACORD Corporation and as issued by the insurance carrier for the insured, shall serve as documentation of insurance. The Certificate of Insurance must be dated, signed, and issued by an authorized representative of the insurance carrier for the insured.

(1) The declaration page of a standard workers' compensation policy, as issued by the insurance carrier for the insured, serves as documentation of insurance for both South Carolina and out-of-state employers, provided South Carolina is indicated as a named state in section 3A or 3C.

(2) The ACORD Form 25-S, Certificate of Insurance, as issued by the insurance carrier for the insured, is acceptable documentation of insurance, provided the Certificate of Insurance indicates a valid South Carolina address for the insured, is dated, signed and issued by an authorized representative of the

insurance carrier for the insured. For an out-of-state employer, the ACORD Form 25-S is acceptable, provided the authorized representative of the insurance carrier for the insured affirms the following in an accompanying statement: South Carolina is a named state in section 3A or 3C of the declaration page of the insured's policy.

B.If the employer is a member of a self-insured fund approved by the Commission, the ACORD Form 25-S, Certificate of Insurance, must be dated, signed, and issued by an authorized representative of the self-insured fund.

C.If the employer has been approved by the Commission to individually self-insure according to R.67-1500, et. seq., the self-insurance certificate issued by the Commission shall serve as documentation of insurance as provided in Section 42-1-415.

#### 67-416. Electronic Data Interface.

A.All insurance carriers, third party administrators, self-insureds, ~~and self-insured funds, and the State Accident Fund~~ reporting coverage, accident, and claims information to the Commission shall report such information using electronic interchange standards prescribed by the Commission, ~~beginning no later than January 1, 1998.~~

~~B.In the alternative, the responsible reporting entity shall have an implementation plan approved by the Commission by January 1, 1998.~~

~~B.C.Unless otherwise exempt by Commission agreement, reporting entities shall be charged a fee for each form or report filed after January 1, 1998, which does not conform to the Commission's prescribed electronic data interchange standard. Failure to comply with the Commission's prescribed electronic data interchange standard shall result in the assessment of fines in accordance with R.67-1401.~~

~~D.The fee for filing non electronic information shall be the difference between the Commission's cost of processing electronic data compared to processing paper forms and reports.~~

#### 67-603. Employer's Answer to a Request for Hearing, Time for Filing and Service.

A. The employer's representative shall respond to a Form 50 by preparing a Form 51 and respond to a Form 52 by preparing a Form 53.

B. The employer's attorney shall fully state its position and defenses, if any, replying to each specification in the Form 50 or Form 52 and:

(1) File the Form 51 or Form 53 and a proof of service with the Commission's Judicial Department within thirty days of service of the Form 50 or Form 52; and

(2) Serve the claimant a copy of the Form 51 or Form 53 according to R.67-211.

C. Failure to file a Form 51 or Form 53 within the period in section B(1) shall be deemed a general denial of liability for the benefits claimed and the employer and its representative by the failure to respond within the period in section B(1) shall forfeit each special and affirmative defense allowed by the Act including the defenses available in Sections 42-9-60, 42-15-20, 42-15-40, and 42-17-90 of the Act.

D. When under the laws of this State an employer and its insurance carrier, if any, are required to be represented by an attorney in a contested case hearing, its attorney must file a letter of representation with

the Judicial Department and provide a copy to the opposing party no later than sixty days from the date of service of the Form 50 or Form 52.

E. A Form 51 must describe with as much specificity as possible the defenses to be relied upon by the defendants. A Form 51 shall not state “all defenses apply” or other similar language unless such is actually the case. A Form 51 not complying with this regulation shall not be considered at a hearing.

67-607. Hearing Notice.

A. Each party is afforded at least thirty days notice of a hearing.

B. The Commission issues a hearing notice to the parties which includes the date, place, time, and purpose of the hearing.

C. Hearing notices may be issued electronically.

67-609. Withdrawing a Request for Hearing.

A. A claimant may withdraw a Form 50 or Form 52 once as a matter of right with leave to renew.

(1) A Form 50 or Form 52 may be withdrawn by writing the Commission’s Judicial Department, if a hearing notice has not been issued, or, the Commissioner’s office identified on the hearing notice.

(2) When a Form 50 or Form 52 is withdrawn, a notice removing the case from the docket will be filed in the Commission’s record and a copy sent electronically or mailed to the parties in R.67-210.

B. The notice is without prejudice to the claimant’s right to proceed with his or her claim.

(1) If the nature of the claim and the relief requested does not change, write the Judicial Department requesting the Form 50 or Form 52 be reset for hearing.

(2) If the nature of the claim or relief requested changes, file according to R.67-207, a new Form 50 or Form 52 with the word “Amended” printed or typed boldly on the top of the form.

C. Withdrawing a Form 50 or Form 52 the second time without good cause may operate as a voluntary dismissal of the claim when the form is withdrawn by a claimant who has once withdrawn a Form 50 or Form 52 based on the same set of facts, and, in the opinion of the Commissioner, the form is withdrawn merely for the purpose of delay.

D. Withdrawing a Form 15 request for hearing waives the sixty day hearing requirement. If the jurisdictional commissioner is unable to reschedule the case, the file will be returned to the Judicial Department to be reassigned.

67-701. Requesting Commission Review of the Hearing Commissioner’s Decision.

A. Either party or both may request Commission review of the Hearing Commissioner’s decision by filing the original and ~~eight~~ three copies of a Form 30, Request for Commission Review, with the Commission’s Judicial Department within fourteen days of the day the Commissioner’s order is received. The fourteen day period is jurisdictional. The Commission will not accept for filing a Form 30 that is not postmarked or delivered to the Commission by the fourteenth day from the date of receipt of the Hearing

Commissioner's order. The appellant shall attach a copy of the Order and Decision being appealed to the Form 30 and to the brief.

(1) The party requesting review is the appellant. The opposing party is the respondent. Place the proper designation after the names of the parties on the form.

(2) The W.C.C. file number assigned to the case is retained and must be on the Form 30.

(3) The grounds for appeal must be set out in detail on the Form 30 in the form of questions presented.

(a) Each question presented must be concise and concern one finding of fact, conclusion of law, or other proposition the appellant believes is in error.

(b) References to evidence must be by title and exhibit number.

(4) To request oral argument, mark the space provided on the Form 30.

(a) If the space provided on the Form 30 requesting oral argument is not marked, oral argument is waived. The Commission will review the Commissioner's decision on the record without oral argument.

(b) If the appellant does not request oral argument, the respondent may request oral argument by writing the Judicial Department. A copy of the letter requesting oral argument must be sent to all opposing parties pursuant to R.67-211.

(c) If respondent requests oral argument, both parties may present oral argument.

(5) File the Form 30 and proof of service with the Judicial Department. Serve the opposing party pursuant to R.67-211.

(a) The Judicial Department will not set a Form 30 for review until proof of service is filed.

(b) Failure to file proof of service will result in receipt of a notice administratively dismissing the Form 30.

(c) An administrative dismissal does not bar review if the Form 30 has been timely filed. When service is completed, write the Judicial Department requesting the Form 30 be set for review.

B.If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of the Form 30 and serve the Form 30 on the opposing party.

#### 67-709. Commission Review, Procedure.

A.Commission review may be conducted by a three or six member review panel either of which excludes the original Hearing Commissioner. An order of a three member review panel has the same force and effect as a six member review panel and is the final decision of the Commission.

B.The Commission's Chair with ~~the unanimous~~ approval of the majority of the other Commissioners ~~may~~ shall assign cases to a three member panel according to the following subsections:



(1) When a Form 30 is filed, the Hearing Commissioner is notified. If the Hearing Commissioner determines the review involves a novel issue of law or fact, the Hearing Commissioner may request the Commission's Chair set the case for review by a six member review panel.

(2) If the Hearing Commissioner does not request a six member review, the Commission's Chair may assign the review to a three member panel.

(3) The Commission's Chair may appoint by random selection two review panels and exclude, on a rotating basis, one Commissioner from the panels each month. The Commission's Chair may assign a case for review as in B(2) above to a three member panel that excludes the original Hearing Commissioner.

C. The Commissioners reviewing the case may confer and shall vote within ten days of the date of review. The original Hearing Commissioner's decision is neither a vote, nor shall it be considered as a vote, of the Commission's final decision.

D. To reverse the Hearing Commissioner's decision requires a majority decision of the Commissioners reviewing the case.

(1) A majority of a three member panel consists of two votes to reverse.

(2) A majority of a six member panel consists of four votes to reverse.

(3) If one Commissioner is temporarily incapacitated or a vacancy exists on the Commission, review may be conducted by the remaining Commissioners sitting as a five or three member panel.

(a) The Hearing Commissioner may request review of the case as in B(1) above, and a panel of five may review the case. A majority consists of four votes to reverse.

(b) If the Hearing Commissioner does not request review as in B(2) above, the Commission's Chair may assign the review to a three member panel. A majority consists of two votes to reverse.

E. A Hearing Commissioner's finding of fact or conclusion of law subject to review by the Commission may be modified by the entry of the review panel's order making a new finding of fact, conclusion of law, or modifying the Hearing Commissioner's finding of fact or conclusion of law.

(1) On review, a vote to affirm and modify is deemed a vote to affirm, or a vote to reverse and modify is deemed a vote to reverse.

(2) The Commissioners, together, shall agree on a modification if any and record their findings of fact and conclusions of law on a vote sheet.

(3) If the case is reviewed by a three member panel and the panel cannot agree on modifying the Hearing Commissioner's decision, the Commissioners on the three member panel may request the remaining Commissioners, excluding the Hearing Commissioner, review the case and the issue in dispute as follows:

(a) The panel may certify an issue for review to the remaining Commissioners, excluding the Hearing Commissioner, by completing a vote sheet and phrasing the issue in dispute in the form of a question.

(b) The Commission's Judicial Department will notify the parties of the question presented to the remaining Commissioners and the parties may file briefs according to R.67-705 on or before the date stated on the notice. Oral argument is not permitted.

(c) The remaining Commissioners shall consider the question presented, briefs if any, and register their decision on the vote sheet within thirty days of the date of notice to the parties.

(d) The panel members shall issue an order thirty days from the date the remaining Commissioners register their decision.

(4) The Commission sitting as a five or six member review panel shall register a vote in accordance with section C above. The Commission sitting as a five or six member panel may remand a case to the Hearing Commissioner only for taking additional or newly discovered evidence or for exceptional circumstances set forth in its order.

F. If a Commissioner fails to register a vote within the periods referred to above, the Commissioner is deemed to have registered a vote affirming the Hearing Commissioner and may not vote otherwise.

G. [Repealed]

#### R.67-712. Requesting Higher Court Review.

A. Notice shall be given to the Judicial Department of any and all subsequent appeals and orders. See Rule 203(b)(6), SCACR.

B. The appellant shall provide the Judicial Department with a copy of any orders issued.

#### 67-801. Settlement of the Claim, General.

A. After the claimant reaches maximum medical improvement the parties may agree to settle the claim by signing a Form 16 or Form 16A, Agreement for Permanent Disability/Disfigurement Compensation, or by signing an Agreement and Final Release (clincher).

B. ~~If the claimant~~ each party is represented by an attorney, an appearance before a Commissioner is not required for approval of a settlement unless either party requests an informal conference, or the Commissioner schedules a hearing.

C. If the claimant is not represented by an attorney, the parties must appear before the Commissioner assigned to the claim at an informal conference for approval of the settlement. At the informal conference, the Commissioner will review the proposed settlement and may approve it if the Commissioner finds the settlement fairly made and in accordance with the provisions of the Act.

D. A Form 16 or Form 16A retains the claimant's right to request a hearing according to R.67-207 for additional benefits not later than one year from the date of the last compensation payment. By signing the Form 16 or Form 16A, the employer's representative does not agree it will make any additional payments in the future unless the form specifically provides otherwise. ~~The claimant may request a hearing according to R.67-207 for additional benefits.~~

E. An Agreement and Final Release (clincher) relieves the employer and its representative from any further responsibility for payment of compensation or medical expenses, unless the Agreement and Final Release specifically provides otherwise. When the claimant signs the Agreement and Final Release and it

is approved, the claimant does not have the right to ask for additional payments in the future even if the claimant's medical condition worsens, unless otherwise specifically provided in the document.

F. An official copy of the settlement is approved and certified by the Commission as binding.

67-802. Settlement, Form 16, Form 16A.

A. If parties agree to the terms of a Form 16 or Form 16A, the employer's representative completes a Form 16 or Form 16A by recording the claimant's compensation rate, the percent of disability agreed upon, disfigurement, if any, and the number of weeks of compensation the claimant will receive. The form may be approved as follows:

(1) If the claimant is not represented by an attorney, the Form 16 or Form 16A must be approved at an informal conference.

(a) The employer's representative must request an informal conference by filing an updated Form 18 showing the status of payment of temporary compensation, if any, and medical expenses with the Commission's Judicial Department. For claims arising after July 1, 2007 a Form 14B is also required. The claimant may request an informal conference by writing to the Judicial Department.

(b) If the parties reach an agreement at the informal conference which the Commissioner approves, or the claims mediator recommends, the parties sign the agreement. (A Commissioner must approve a claims mediator's recommendation before the settlement is recorded as binding.)

(c) If the parties do not reach an agreement with which the Commissioner approves the Commission will set a hearing according to R.67-804I.

(2) If the claimant is represented by an attorney, the claimant, his or her attorney, and the employer's representative sign the Form 16 or Form 16A. The Form 16 or Form 16A may then be filed with the Commission for approval without an appearance before a Commissioner, as follows:

(a) The employer's representative files an original and one copy of the Form 16 or Form 16A with the Commission's Claims Department. The employer's representative shall file the Form 14B with the Form 16A for claims arising after July 1, 2007.

(b) A Commissioner reviews the ~~f~~Form and may approve the ~~f~~Form.

(c) If the Commissioner signs the Form approving it, the Claims Department records the settlement and returns an approved copy of the ~~f~~Form to the employer's representative.

(d) The employer's representative must provide the claimant a copy of the approved Form 16 or Form 16A.

(3) If the claimant is represented by an attorney, and the employer is represented by an attorney, a Form 16 or a Form 16A shall be filed with the Commission.

(a) The attorney for the employer's representative files an original and one copy of the Form 16 with the Commission's Claims Department. A Commissioner reviews the Form and may approve the Form.

(b) The attorney for the employer's representative files an original and one copy of the Form 16A with the Commission's Claims Department.

(c) The Commission's Claims Department reviews and records the settlement and returns an official copy of the Form to the attorney for the employer's representative.

B. The Commissioner may schedule an informal conference to discuss the terms of the settlement when necessary.

#### 67-803. Settlement by Agreement and Final Release.

A. If the parties agree to the terms of a settlement by entering into an Agreement and Final Release, the document shall include the following:

- (1) The caption of the claim;
- (2) A statement of the facts at issue;
- (3) The date and nature of the alleged injury coinciding with the date and nature of each injury on the Form 12A, Form 50, or Form 52;
- (4) The amount of the settlement and terms of payment; and
- (5) The signature of the claimant, his or her attorney, if any, and the attorney for the employer's representative.

~~B. An Agreement and Final Release is approved when signed by the Commissioner assigned to the claim, or by another Commissioner if the assigned Commissioner is unavailable. An approved Agreement and Final Release is binding. The employer's representative pays compensation according to its terms. An Agreement and Final Release shall be approved as follows:~~

(1) If the claimant is not represented by an attorney, the Agreement and Final Release must be approved at an informal conference, ~~as follows:~~

(a) The employer's representative must request an informal conference by filing an updated Form 18 showing status of payment of temporary compensation, if any, and medical expenses with the Commission's Judicial Department. For claims arising after July 1, 2007 a Form 14B is also required. The claimant may request an informal conference by writing to the Judicial Department.

(b) The attorney for the employer's representative and the claimant attend the informal conference. If the parties reach an agreement at the informal conference that the Commissioner approves, the Agreement and Final Release is signed by the claimant, the attorney for the employer's representative, and the Commissioner.

(c) The attorney for the employer's representative must provide the original and two ~~three~~ copies of the Agreement and Final Release to the Commissioner at the informal conference. The Commission returns an official copy to the attorney for the employer's representative, and the attorney for the employer's representative shall provide the claimant a copy of the ~~approved and~~ official Agreement and Final Release.

(d) If the Commissioner does not approve the Agreement and Final Release, the Agreement and Final Release is neither approved nor binding. The Commission will set the claim for hearing according to R.67-804I.

(2) If the claimant is represented by an attorney, the claimant, his or her attorney, and the attorney for the employer's representative sign the Agreement and Final Release. The Agreement and Final Release shall be filed with the Claims Department, may then be approved by the Commissioner assigned the claim without an appearance before a Commissioner as follows:

(a) The attorney for the employer's representative files the original and ~~one~~ two copies of the proposed Agreement and Final Release with the Claims Department.

(b) ~~The claim is assigned to the Commissioner who last issued an order in the case, or if an order has not been issued, to the Commissioner assigned to the claim, or to any other Commissioner if the assigned Commissioner is unavailable. An official copy of the Agreement and Final Release is returned to the attorney for the employer's representative.~~

(c) ~~The Commissioner reviews the Agreement and Final Release and he or she may sign and approve it. The employer's representative shall provide the claimant an official copy of the Agreement.~~

(d) ~~An approved copy of the Agreement and Final Release is returned to the attorney for the employer's representative.~~

(e) ~~The employer's representative must provide the claimant a copy of the approved Agreement.~~

C. ~~The Commissioners will~~ shall not approve an Agreement and Final Release that is not fairly made and in accordance with the Act. ~~If the Agreement and Final Release is not approved, the Commissioner assigned the claim may schedule an informal conference or hearing according to R.67-804I. An approved Agreement and Final Release is binding. The employer's representative shall pay compensation according to its terms.~~

#### 67-804. Informal Conference.

A. A claims mediator may appear on behalf of a Commissioner at an informal conference and review a proposed Form 16 or Form 16A settlement or review a R.67-505 or R. 67-506 request to certify a Form 17. A claims mediator may not appear on behalf of a Commissioner at an informal conference requested for review of a proposed Agreement and Final Release.

B. An informal conference is defined in R.67-202(8).

C. Request an informal conference as follows:

(1) File an updated Form 18 indicating the status of payment of temporary compensation, if any, and medical expenses and complete Section 6 by checking "yes."

(2) When a request for an informal conference is received, the Commission's file is reviewed for required reports. The employer's representative must assure the following reports are in the Commission's file before the informal conference is held or it may be subject to a fine.

(a) Form ~~45~~ 14B, if applicable; and

(b) Form ~~20~~ 15, if applicable; and

(c) Form 17, if applicable; and

(d) ~~All medical reports required by R.67-1301~~ Form 20, if applicable; and

(e) ~~An authorized health care provider's report stating the claimant has reached maximum medical improvement and an impairment rating, if any~~ All medical reports required by R.67-1301, and

(f) ~~An amputation chart, if applicable.~~ An authorized health care provider's report stating the claimant has reached maximum medical improvement and an impairment rating, if any; and

(g) An amputation chart, if applicable.

D. The claimant may request an informal conference by writing the Commission's Judicial Department and stating whether the parties propose to settle the claim on a Form 16, a Form 16A, or by Agreement and Final Release.

E. An informal conference may be held with less than thirty days notice to the parties. The conference shall be held at a hearing site as designated by the jurisdictional commissioner. If the parties request in writing to convene the conference in a different hearing site, all parties agree, and the letter is received before the conference hearing notice is issued, the request may be approved administratively.

F. Only the Commissioner assigned to the claim is authorized to approve a Form 16, a Form 16A, or an Agreement and Final Release.

G. When the claimant fails to appear at an informal conference, the Commission reschedules the conference.

(1) If the claimant fails to appear twice, the claim is taken from the informal conference roster and administratively dismissed.

(2) The claimant may request the Commission schedule another informal conference and the Commissioner assigned to the claim may, if a good cause is shown, allow the claimant to proceed with his or her claim.

H. If the employer's representative or an attorney, if any, fails to appear at the informal conference, the Commission reschedules the conference. The Commissioner assigned to the claim may impose on the employer's representative or an attorney, if any, the actual costs of the conference as established by the Commission.

I. If the parties fail to reach an agreement at the informal conference, or the proposed Agreement and Final Release is not approved, the Commission will set the claim on the contested case hearing docket. A Form 50 or Form 52 is not required, but if filed, the opposing party must respond according to R.67-603.

J. Either party may request postponement of the informal conference by writing the Commissioner whose name appears on the informal conference notice or the Judicial Department. The Commissioner may reschedule the conference during the term the Commissioner is in the district. If the Commissioner cannot reschedule the conference during his or her term in the district, the Commission will reschedule the conference, unless otherwise provided.

67-805. Third Party Settlements.

A. The distribution of third party settlement proceeds must be ~~approved by~~ filed with the Commission unless otherwise directed by a court of competent jurisdiction.

B. ~~To obtain approval, send~~ File the settlement ~~documents papers with~~ to the Claims Department.

C. ~~If the parties agree, Third party settlements less than two thousand five hundred dollars are deemed approved automatically if the parties agree and~~ do not need to be ~~submitted to~~ filed with the Commission.

D. If the claimant is not represented by an attorney, the third party settlement must be approved at an informal conference according to R.67-803B(1).

67-1001. Parties, Generally.

A. The proper parties in ~~an~~ a claim involving an occupational disease ~~is~~ are often a matter in dispute.

B. The claimant may request a report from the Commission's ~~Coverage and Compliance Department~~ of the insurers of an employer or employers at or during the period of alleged exposure. ~~Provide~~ The period of alleged exposure must be provided for each employer.

67-1101. Total or Partial Loss or Loss of Use of a Member, Organ, or Part of the Body.

A. This regulation does not include injury to the many bodily systems, organs, members, and anatomical parts for which compensation is payable due to disability or serious disfigurement under Section 42-9-10 and Section 42-9-20.

B. This schedule of organs, members, and bodily parts lists prominent parts of the anatomy subject to occupational injury and is not complete. The value of an organ, member, or bodily part not included may be determined in accordance with the American Medical Association's "Guide to the Evaluation of Permanent Impairment", or any other accepted medical treatise or authority. Compensation shall be payable shall be payable for total loss, permanent partial loss, or loss of use of a member, organ, or part of the body when compensation is not otherwise payable.

C. For total loss, partial loss, or loss of use of an organ, member, or body part listed in this regulation, disability shall be deemed to continue for the minimum period specified, if applicable. In cases involving impairment and disability in excess of the minimum period specified for partial loss of or loss of use of an organ, member, or bodily part, compensation shall be payable in such proportion as disability bears to the maximum number of weeks provided in this regulation. The maximum period of compensation for a combination of injuries is the legislative criterion of five hundred weeks.

		Partial Loss or
Organ, Member or Body Part	Total Loss	Loss of Use
Breast	75	10-75
Breasts	250	25-250
Coccyx	10	1-10
Gall Bladder	75	10-75
Kidney	400	25-250
Lung	400	25-250
Pancreas	500	10-250

Penis	350	25-250
Rib	10	1 ½-10
(Maximum award of 200 weeks for total loss of 4 ribs)		
Scrotum and Testicles	350	30-300
Spleen	25	2 ½ -25
Testicle	75	10-75
Testicles	250	25-250
Tongue	500	50-500
Tooth	2	½ -2
Biliary Tract		75-400
Bladder		25-250
Brain		25-250
Bronchi or Bronchus		25-400
Esophagus		25-400
Cervix		10-100
Clavicle		10-100
Colon		25-250
Diaphragm		25-250
Duodenum		10-250
Fallopian Tubes		10-100
Heart		25-250
Intestine, Small		10-400
Larynx		25-400
Liver		25-250
Mandible		10-100
Ovaries		10-100
Palate		25-250
Penis		25-250
Prostate		10-100
Rectum		10-250
Scapula		10-200
Skin		5-300
Spermatic Cord		10-100
Sternum		10-100
Stomach		25-250
Thyroid Gland		10-100
Ureter		10-100
Urethra		10-100
Vagina		25-250
Vulva		25-250
Nasal Passage		10-75
Olfactory Nerve		10-75
Sinus		5-30
Zygomatic Arch or Facial Nerve		
(In accordance with the AMA "Guides")		

67-1204. Reporting Attorneys Fees for approval.



A. An attorney shall report and obtain approval of any fee for services rendered in a worker's compensation claim as follows.

B. When the parties agree to a fee based on an hourly rate and/or retainer the total amount of the fee shall be reported on the Form 19, filed according to R.67-414.

C. When the parties agree to a contingent fee contract, the attorney shall report the fee by filing the original and one copy of a Form 61, Attorney Fee Petition, and an Order, along with a stamped, self-addressed envelope with the Commission's Claims Department.

~~D. Obtaining approval of a fee: Upon receipt of a Form 61 and Order, the Order may be signed and a copy returned to the attorney when the fee calculation complies with R.67-1205.~~

~~(1) Upon receipt of a Form 19 reporting for approval a fee based on an hourly rate and/or retainer, the fee may be approved according to R.67-1205(A).~~

~~(2) Upon receipt of a Form 61 reporting for approval a contingent fee, the Commissioner or his or her designee shall review the computation of the fee according to R.67-1205.~~

~~E. A Form 61 may be marked "Approved" and a copy of the form returned to the attorney when the fee calculation complies with R.67-1205. The Commissioner may amend, sign, and return a copy of the Order. If the attorney disagrees with the Amended Order, the attorney may file a motion according to R.67-1205 with the Commission's Judicial Department. The motion may be heard according to R.67-215, unless the motion requests a hearing to present testimony or evidence.~~

~~(1) A Form 61 may be marked "Rejected" and returned to the attorney when it appears that the calculation does not comply with R.67-1205.~~

~~(2) If a Form 61 is rejected, the attorney may adjust his or her fee calculation and file an original and one copy of an amended Form 61 with the word "Amended" boldly written or typed on the form.~~

~~(a) The amended Form 61 will be reviewed and if it complies with R.67-1205 marked "Approved" and a copy returned to the attorney.~~

~~(b) If, in the opinion of the Commissioner presented the claim, the amended Form 61 does not comply with R.67-1205 the Commissioner shall immediately schedule a hearing and consider the amended Form 61, argument of counsel, and testimony, if any.~~

~~(c) The attorney and his or her client will be notified of the hearing by receipt of a hearing notice.~~

~~F. If an attorney and his or her client are notified that a Form 61 has been rejected, the attorney may file a motion requesting approval of a fee without submitting an amended Form 61. The motion may be filed according to R.67-215 with the Commission's Judicial Department. The motion may be heard according to R.67-215, unless the motion requests a hearing to present testimony or evidence. If the Form 61 and Order do not comply with R.67-1205, the Commissioner reviewing the Form 61 and Order shall immediately schedule a hearing to consider argument of counsel and testimony, if any.~~

#### 67-1301. Medical Reports.

A. A medical practitioner or treatment facility shall furnish upon request all medical information relevant to the employee's complaint of injury to the claimant, the employer, the employer's

representative, or the Commission. Payment for services rendered may be withheld from any medical practitioner or treatment facility who fails to comply with a request for this information.

B.The employer's representative shall submit to the Commission a report indicating the claimant's final rating of permanent impairment.

C.A health care facility and a health care provider may charge a fee for the search and duplication of a medical record not to exceed the fee published in the Medical Services Provider Manual.

#### 67-1307. Rehabilitation Professionals.

A.Rehabilitation professionals are coordinators of medical rehabilitation services, including but not limited to state, private, or carrier based, whether on site, telephonic, in or out of state.

B.The role of a rehabilitation professional is to ensure the primary concern and commitment in each workers' compensation case is to advance the medical rehabilitation of the injured worker.

C.A rehabilitation professional must comply with S.C. Section 42-15-95 and R.67-1308 when communicating with a health care provider who provides examination or treatment for any injury, disease, or condition for which compensation is sought. A rehabilitation professional shall possess one of the following certifications:

(1) Registered Nurse – RN;

(2) Certified Rehabilitation Counselor – CRC;

(3) Certified Registered Rehabilitation Nurse – CRRN;

(4) Certified Disability Management Specialist – CDMS;

(5) Certified Occupational Health Nurse – COHN; or

(6) Certified case manager – CCM.

D.Rehabilitation professionals shall be subject to the requirements, rules, regulations, and Code of Ethics specific to their license and certification.

#### R. 67-1308. Communication Between Parties And Health Care Providers.

A.A health care provider who provides examination or treatment for any injury, disease or condition for which compensation is sought under the provisions of this title may discuss or communicate an employee's medical history, diagnosis, causation course of treatment, prognosis, work restrictions, and impairments with the insurance carrier, employer, their respective attorneys or certified rehabilitation professionals or the Commission without the employee's consent.

B.The claimant must be:

(1) Notified by the employer, carrier or its representative requesting the discussion or communication with the health care provider in a timely fashion, but no less than ten days notice unless the parties agree otherwise. Notification may be oral or in writing.

(2) Allowed to attend and participate, along with claimant's attorney, if any.

(3) Advised by the employer, carrier or its representative requesting the discussion or communication prior to the discussion or communication.

(4) Provided a copy of the written questions at the same time the questions are submitted to the health care provider and provided a copy of the response by the health care provider.

67-1402. Unqualified Self-Insured Employer, Prosecution.

A. When it appears an employer is operating in violation of this Chapter and the Act by failing to provide proof of compliance with the insurance provisions of this Chapter and the Act, the Commission's ~~Coverage and Compliance Department~~ shall institute an investigation of the employer and its operations.

(1) An officer of the department is authorized to conduct the investigation.

(2) The officer shall gather information necessary to make a recommendation concerning the employer's compliance with the provisions of this Chapter and the Act.

B.If the officer determines an employer has complied with the provisions of this Chapter and the Act, the department's director shall issue an administrative order dismissing the investigation.

(1) An administrative order dismissing an investigation shall not deny a claimant an opportunity to proceed with the prosecution of a claim.

(2) If an investigation is dismissed, a claimant may request a hearing by filing a Form 50 or Form 52 according to R.67-207. The hearing will be conducted according to Article 6.

(a) A Commissioner assigned to the claim shall determine the issue of jurisdiction and the underlying claim at the request of the claimant.

(b) The parties have the right to review as in other cases.

C.If the officer determines that the employer is not in compliance with the provisions of this Chapter and the Act, the officer shall issue a citation to the employer stating the officer's findings of fact and conclusions.

(1) The citation may recommend a fine as provided in this Chapter and the Act.

(2) The citation and a ~~Form 62~~, Compliance Agreement, shall be served on the employer according to R.67-213.

D.The employer shall respond to the citation within fourteen days of the date of receipt of the citation.

(1) The employer may sign the ~~Form 62~~ Compliance Agreement and pay the fine as proposed, if any, or request the director's review of the citation.

(2) Failure to respond to the citation within fourteen days of receipt shall result in prosecution of the employer according to R.67-1404.

E. The employer may request the director's review of a citation by writing the Commission Coverage and Compliance Department within fourteen days of the date of receipt of the citation.

(1) The department director shall review the citation, confer with the employer and issue a written determination of the director's findings and conclusions.

(2) If the employer disputes the director's findings and conclusions, the employer may request an opportunity to appear at a hearing before a Commissioner to show cause why it is not in violation with the provisions of this Chapter and the Act.

(3) An Order and Rule to Show Cause shall be issued to the employer according to R.67-1404.

F. A ~~Form 62~~, Compliance Agreement, is evidence of voluntary compliance with the insurance provisions of this Chapter and the Act. By signing and filing a ~~Form 62~~ Compliance Agreement, the employer is not required to appear at a compliance hearing. The form is an agreement to the following:

(1) The Commission's jurisdiction; and

(2) The employer should have had worker's compensation insurance during the period stated in the ~~Form 62~~ Compliance Agreement but did not; and

(3) The employer will comply with the insurance provisions of this Chapter and the Act, or otherwise comply with the provisions of this Chapter and the Act; and

(4) The employer will defend any worker's compensation claims brought against it, ~~if any~~; and

(5) If the claim is found compensable the employer will comply with the reporting requirements of this Chapter and the Act; and

(6) The employer will make prompt payment of a claim found compensable under the Act ~~unless R.67-1403 applies~~.

G. When a final decision concerning jurisdiction is rendered the claimant may proceed with a claim for compensation by filing a Form 50 or Form 52 as provided in R.67-207.

#### **Fiscal Impact Statement:**

The South Carolina Workers' Compensation Commission estimates there will be no additional costs incurred by the State and its political subdivisions to comply with these proposed regulations.

#### **Statement of Rationale:**

To amend and add regulations to Chapter 67 to reflect changes in Title 42 necessitated by the approval of Act 111 on June 25, 2007.